

1 WILLIAM F. SULLIVAN (SB# 78353)
williamsullivan@paulhastings.com
2 JOHN S. DURRANT (SB# 217345)
johndurrant@paulhastings.com
3 KATHRYN C. WANNER (SB# 269310)
kathrynwanner@paulhastings.com
4 PAUL, HASTINGS, JANOFSKY & WALKER LLP
5 515 South Flower Street
Twenty-Fifth Floor
6 Los Angeles, CA 90071-2228
Telephone: (213) 683-6000
7 Facsimile: (213) 627-0705

8 Attorneys for Defendants
The Bear Stearns Companies LLC; J.P. Morgan
9 Securities LLC; J.P. Morgan Clearing Corp.; Alan C.
Greenberg; Joe Yi Zhou; and Garrett Bland

10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 Vivine H. Wang,

15 Plaintiff,

16 vs.

17 The Bear Stearns Companies LLC
(formerly known as The Bear Stearns
18 Companies, Inc.); J.P. Morgan
Securities LLC (formerly known as
19 Bear, Stearns & Co., Inc.); J.P. Morgan
Clearing Corp. (formerly known as
20 Bear, Stearns Securities Corp.);
Deloitte & Touche LLP; Alan D.
21 Schwartz; Alan C. Greenberg; Joey
Zhou; Garrett Bland,

22 Defendants.
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CASE NO. CV11-02624 PSG (SSx)

**INDIVIDUAL DEFENDANTS'
JOINT *EX PARTE* APPLICATION
FOR AN EXTENSION OF TIME TO
RESPOND TO THE COMPLAINT**

[Declaration of J. Durrant and
[Proposed] Order filed and served
concurrently herewith]

Judge: Hon. Philip S. Gutierrez
Dept. 880
Complaint Served: April 22, 24, and 28,
2011
Current Response Date(s): May 13, 16,
and 19, 2011
New Response Date: TBD

Trial Date: TBD

1 TO THE COURT, PLAINTIFF VIVINE H. WANG (“PLAINTIFF”) AND HER
2 COUNSEL OF RECORD:

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4 Defendants Alan C. Greenberg, Joe Yi Zhou, Garrett Bland, and Alan D.
5 Schwartz (“Individual Defendants”) hereby jointly apply *ex parte* to this Court for
6 an Order extending their time to answer or otherwise respond to Plaintiff’s
7 Complaint until June 24, 2011.

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9 This Application is made following the conference of counsel which took
10 place on May 9, 2011. As of 5:00 p.m. on May 9, 2011, Counsel for Plaintiff has
11 not indicated whether he intends oppose this Application.

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13 This Application is based on this Application, the Memorandum of Points
14 and Authorities in support hereof, the Declaration of John S. Durrant in support
15 hereof, the pleadings, records, and files in this action, those matters of which this
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1 Court may take judicial notice; and on such further evidence and argument as may
2 be presented prior to or at the time of any hearing on this matter.

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4 DATED: May 9, 2011

WILLIAM F. SULLIVAN
JOHN S. DURRANT
KATHRYN C. WANNER
PAUL, HASTINGS, JANOFSKY & WALKER LLP

7
8 By: /s/ John S. Durrant

JOHN S. DURRANT

9 Attorneys for Defendants
10 The Bear Stearns Companies LLC; J.P. Morgan
Securities LLC; J.P. Morgan Clearing Corp.; Alan C.
11 Greenberg; Joe Yi Zhou; and Garrett Bland

12 DATED: May 9, 2011

ERIC S. WAXMAN
SKADDEN, ARPS, SLATE, MEAGHER & FLOM
13 LLP

14
15 By: /s/ Eric S. Waxman

ERIC S. WAXMAN

16 Attorneys for Defendant
17 Alan D. Schwartz

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On April 22, 2011, this Court granted in-part and denied in-part defendants The Bear Stearns Companies LLC, J.P. Morgan Securities LLC, J.P. Morgan Clearing Corp., and Deloitte & Touche LLP's (collectively, "Corporate Defendants") *ex parte* Application for a Stay and an Extension of Time to Respond to the Complaint. The Court extended Corporate Defendants' response date until and including June 24, 2011.

Plaintiff subsequently served Joe Yi Zhou ("Zhou"), Garrett Bland ("Bland"), Alan C. Greenberg ("Greenberg"), and Alan D. Schwartz ("Schwartz") (collectively, "Individual Defendants").¹ Now, having been unable to reach a stipulated agreement with counsel for Plaintiff to extend the time to answer, the Individual Defendants jointly seek identical relief to that the Court previously granted for Corporate Defendants – an extension of the response date until and including June 24, 2011.²

This joint *ex parte* Application is made pursuant to Local Rule 7-19 and FED. R. CIV. PROC. 6(b), on the grounds that good cause exists for granting this application. The same reasons for granting *ex parte* relief for Corporate Defendants apply here. As explained in Corporate Defendants' prior *ex parte* papers, which are incorporated herein by reference, this matter is likely to be transferred to the Southern District of New York for coordinated or consolidated pretrial proceedings

¹ Plaintiff served Zhou on April 22, 2011, making his response due May 13, 2011. Declaration of John S. Durrant ("Durrant Decl.") ¶ 2. Plaintiff served Bland on April 24, 2011, making his response due May 16, 2011. *Id.* Upon information and belief, Plaintiff served defendant Greenberg no earlier than April 22, 2011, making his response due no earlier than May 13, 2011. *Id.* Plaintiff served Schwartz on April 28, 2011, making his response due May 19, 2011. *Id.*

² By filing this joint *ex parte* Application, Individual Defendants do not waive their rights to seek from Plaintiff or the Court additional adjournments or extensions of filing deadlines; nor does this Application waive, and the Individual Defendants expressly preserve, all rights, claims, and defenses, including, without limitation, all defenses relating to jurisdiction, venue, and arbitrability.

1 with *In re: The Bear Stearns Companies Inc. Securities, Derivative and Employee*
 2 *Retirement Income Security Act (ERISA) Litigation*, MDL No. 1963. A grant of
 3 this joint *ex parte* application therefore would avoid a waste of resources (both of
 4 this Court and of the parties) on a case likely to be adjudicated elsewhere. In
 5 addition, a grant of the application will avoid inconsistent response dates among the
 6 defendants in this case.

7 **II. INDIVIDUAL DEFENDANTS DILIGENTLY ATTEMPTED TO**
 8 **REACH A NEGOTIATED AGREEMENT PRIOR TO FILING THIS**
 9 **APPLICATION**

10 Individual Defendants initially attempted to resolve this issue without Court
 11 involvement. On April 27, 2011 counsel for Zhou, Bland, and Greenberg, John S.
 12 Durrant (“Mr. Durrant”),³ contacted Mohammed Ghods (“Mr. Ghods”), counsel for
 13 Plaintiff, to propose a stipulation extending the time for Individual Defendants to
 14 answer or otherwise respond to the Complaint, but reserving any existing rights,
 15 claims, or defenses that Individual Defendants might otherwise possess. Durrant
 16 Decl. ¶¶ 4 and 6, Ex. A. Mr. Ghods rejected this proposal, refusing to include any
 17 language reserving existing rights. *Id.* ¶ 7, Ex. B. Notably, Mr. Ghods has
 18 provided absolutely no assurance that Plaintiff would not attempt to use the
 19 stipulation as a waiver. In this way, Mr. Ghods conditioned an extension on a
 20 possible waiver of rights by Individual Defendants. Individual Defendants do not
 21 view this condition as appropriate or acceptable, and therefore have filed this
 22 Application by which they expressly reserve rights.

23 Thereafter, counsel for Individual Defendants sought to meet and confer with
 24 counsel for Plaintiff concerning the reservation of rights paragraph in the proposed
 25 stipulation. In compliance with Local Rule 7-19.1, counsel for Individual
 26 Defendants repeatedly sought to contact counsel regarding this issue, using the
 27 following contact information:

28 ³ Counsel for defendant Schwartz authorized Mr. Durrant to speak on behalf of
 Schwartz. Durrant Decl. ¶ 1.

Mohammed Ghods, Esq.
 Ghods Law Firm
 2100 N. Broadway
 Suite 300
 Santa Ana, California 92706
 Tel: (714) 558-8580
 Fax: (714) 558-8579
 mghods@ghodslaw.com

Durrant Decl. ¶¶ 4, 6, and 8, Ex. A. During the negotiations related to the Corporate Defendants, Mr. Ghods expressed the concern that non-waiver language could somehow revive rights, claims, or defenses that had already been waived. Although they did not view this concern as well-founded, Individual Defendants sought to assuage Plaintiff's previous concerns, by including language in a proposed stipulation that any reservation of existing rights would not serve to revive any rights, claims, or defenses that had previously been waived.⁴ *Id.* ¶ 8, Ex. A. Mr. Ghods refused this proposal, now saying that he would only agree to a Stipulation without any non-waiver language. *Id.* ¶ 9, Ex. B.

Following this refusal, Mr. Durrant informed Plaintiff's counsel of Individual Defendants' intent to file this joint *ex parte* application. In a telephone message left for Plaintiff's counsel at 9:15 a.m. on May 9, 2011, Mr. Durrant informed Plaintiff's counsel: (1) that Individual Defendants intended to file this Application, (2) described the substance of this Application, (3) identified the relief requested herein, and (4) noted that any opposing papers must be filed no later than 3 p.m. of the business day following service. Durrant Decl. ¶ 10. By 5:00 p.m. on May 9, 2011, Mr. Ghods had not responded to indicate whether Plaintiff intends to oppose this Application. *Id.* ¶ 11.

⁴ Specifically, Individual Defendants proposed that the following language be included in the Stipulation,

Provided, however, that nothing in this paragraph shall operate to revive rights, claims, or defenses, if any, that have been waived prior to the execution of this Stipulation by operation of law or by actions of Plaintiff or Defendants.

1 **III. THE COURT HAS SOUND LEGAL GROUNDS FOR GRANTING**
2 **THE REQUESTED RELIEF**

3 A court may grant an extension of time to respond to a complaint upon a
4 showing of good cause. FED. R. CIV. P. 6(b)(1)(A). Here, good cause exists for an
5 extension, because such an extension will promote judicial economy. An extension
6 has already been granted for Corporate Defendants, and the same reasons for
7 granting Corporate Defendants' extension apply here. Furthermore, this Court is
8 not served by having to receive and process filings at different dates from
9 defendants with similar interests and counsel. An extension of time for Individual
10 Defendants will be more efficient for both the Court and the parties.

11 **IV. CONCLUSION**

12 For the foregoing reasons, in the interest of judicial economy and justice,
13 Individual Defendants respectfully request that their time within which to answer,
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1 move against, or otherwise respond to the Complaint be extended to and until
2 June 24, 2011.

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4 DATED: May 9, 2011

WILLIAM F. SULLIVAN
JOHN S. DURRANT
KATHRYN C. WANNER
PAUL, HASTINGS, JANOFISKY & WALKER LLP

6
7 By: /s/ John S. Durrant

JOHN S. DURRANT

8
9 Attorneys for Defendants
The Bear Stearns Companies LLC; J.P. Morgan
10 Securities LLC; J.P. Morgan Clearing Corp.; Alan C.
Greenberg; Joe Yi Zhou; and Garrett Bland

11 DATED: May 9, 2011

ERIC S. WAXMAN
SKADDEN, ARPS, SLATE, MEAGHER & FLOM
12 LLP

13 By: /s/ Eric S. Waxman

ERIC S. WAXMAN

14
15 Attorneys for Defendant
Alan D. Schwartz

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17
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